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16 Attorneys for Defendant and Counterclaimant,  
 Blockbuster Inc.

17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA  
 19

20 NETFLIX, INC., a Delaware corporation,

21 Plaintiff,

22 vs.

23 BLOCKBUSTER INC., a Delaware  
 corporation, DOES 1-50,

24 Defendants.  
 25

26 AND RELATED COUNTER ACTION.  
 27  
 28

CASE NO. C 06 2361 WHA

**STIPULATION AND  
~~[PROPOSED]~~ ORDER  
 GRANTING LEAVE TO FILE  
 FIRST AMENDED  
 COMPLAINT**

Complaint Filed: April 4, 2006

1 The parties, Plaintiff and Counterdefendant, Netflix, Inc., and  
2 Defendant and Counterclaimant, Blockbuster Inc., hereby stipulate as follows:

3 1. The First Amended Complaint for Patent Infringement and  
4 Demand for Jury Trial ("First Amended Complaint"), which Netflix filed with this  
5 Court on July 26, 2006, as Document 28, shall be deemed filed as of the date on  
6 which this Court enters its decision on Netflix's pending Motion to Dismiss or,  
7 Alternatively, to Bifurcate and Stay Defendant Blockbuster's Antitrust  
8 Counterclaims and to Strike Affirmative Defenses of Unenforceability and Patent  
9 Misuse (Document 21, filed July 6, 2006), which is presently set for hearing on  
10 August 17, 2006 ("Motion to Dismiss").

11 2. Blockbuster shall have until twenty days after the Court enters  
12 its decision on the Motion to Dismiss to file a response to the First Amended  
13 Complaint.

14 3. This stipulation and any order hereon shall not affect the  
15 proceedings on, or schedule for, the Motion to Dismiss.

16 4. Blockbuster stipulates to Netflix's receiving leave to file the  
17 First Amended Complaint on the foregoing terms and conditions and to Netflix's  
18 being relieved, on the foregoing terms and conditions, from its omission to request  
19 leave by July 28, 2006, to file the First Amended Complaint.

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1           5.       Based on this Stipulation, Netflix's Motion for Relief Under  
2 Civil Local Rule 7-11 (Document 33, filed August 2, 2006), shall be deemed moot.

3  
4 DATED: August 4, 2006   KEKER & VAN NEST, LLP

5  
6 By \_\_\_\_\_/s/

7       Leo L. Lam  
8       Attorneys for Plaintiff and Counterdefendant,  
9       Netflix, Inc.

10 DATED: August 4, 2006   ALSCHULER GROSSMAN STEIN & KAHAN LLP

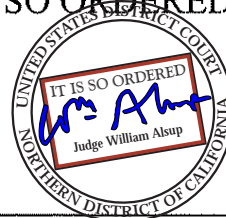
11 By \_\_\_\_\_/s/

12       William J. O'Brien  
13       Attorneys for Defendant and Counterclaimant,  
14       Blockbuster Inc.

15                       ~~PROPOSED~~ ORDER

16                       PURSUANT TO STIPULATION, IT IS SO ORDERED.

17 DATED: August 7, 2006



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19                       Honorable William H. Alsup  
20                       United States District Judge